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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 24 July 2003 from the Permanent Representative of Morocco to the United Nations addressed to the Chairman of the Committee

On behalf of my Government, I have the honour to transmit to you herewith the report submitted by the Kingdom of Morocco in compliance with paragraph 6 of Security Council resolution 1455 (2003) (see annex).

The report covers the measures taken by Morocco to implement the Al-Qaida/Taliban sanctions regime.

(*Signed*) Mohamed **Bennouna**
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Annex to the letter dated 24 July 2003 from the Permanent Representative of Morocco to the United Nations addressed to the Chairman of the Committee

[Original: French]

Report of the Kingdom of Morocco to the Committee established pursuant to resolution 1267 (1999)

In paragraph 6 of its resolution 1455 (2003), the Security Council called upon all States to submit an updated report on all steps taken to implement the sanctions regime against the Taliban and al-Qaida. Such measures include the freezing of assets, travel restrictions and an arms embargo, all of which are directed against individuals and entities included in the Committee's Consolidated List.

The Kingdom of Morocco, aware of the importance of taking such measures to suppress international terrorism, herewith submits its response to the questions of the Security Council Committee established pursuant to resolution 1267 (1999).

I. Introduction

1. *Please provide a description of activities, if any, by Osama bin Laden, al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as any likely trends.*

At the present stage it is difficult to evaluate the threat posed by al-Qaida for our country but it is worth mentioning the disbandment of a sleeping cell and the arrest of its members, including three Saudi Arabians, who were planning to commit a number of attacks.

Furthermore, at the present stage of our investigations, it is premature to speak of the involvement of al-Qaida in the attacks of 16 May 2003 in Casablanca.

The Kingdom of Morocco will be sure to inform the Committee of any further information on this matter.

II. Consolidated List

2. *How has the 126 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?*

The Minister of Finance has transmitted the Committee's List to the banking system giving instructions to ensure the implementation of the sanctions provided for in the resolutions of the Security Council.

For its part, the Exchange Office, which is the body responsible for monitoring operations from and to countries abroad, supervises the implementation of the directives concerning the freezing or seizure of all funds suspected of being connected with the Taliban and al-Qaida.

The administrative authorities responsible for frontier controls have been advised of the Committee's List.

3. *Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.*

No.

4 *Have the authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.*

Some Moroccan nationals have been included in the List, among them Bahaji Said. The judicial authorities have ordered the freezing of his bank account.

5 *Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.*

The Government of the Kingdom of Morocco has no information on this subject.

6. *Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.*

No.

7. *Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.*

No.

8. *According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qaida members in carrying out activities inside your country and to prevent individuals from participating in al-Qaida training camps established in your territory or in another country.*

Moroccan legislation does not allow the national territory to be used for the activities of terrorist groups. Under articles 293 to 299 of the Penal Code, the legislation severely punishes any association of lawbreakers and penalizes the rendering of assistance to criminals.

Furthermore, the adoption of a new law on counter-terrorism has aggravated the penalties for such activities, irrespective of the group sponsoring, preparing or implementing them.

In addition, Part VI of the Dahir (royal decree) of 15 November 1958 concerning "Combat groups and private militias" provides in article 29 that "all associations or de facto groupings: 1. which instigate armed demonstrations in the street; 2. or which, on

grounds of their form and military or paramilitary organization, are of the nature of combat groups or private militias; 3. or which have the objective of compromising the integrity of the national territory or of seizing power by violence or of attacking the monarchical form of the State" shall be dissolved.

Anyone participating in the support or direct or indirect reconstitution of an association of this nature will be punished by a term of imprisonment of between one and five years and if such person is a foreign national, the court will prohibit that person to enter Moroccan territory.

The uniforms, insignia and emblems of continuing or reconstituted associations and groupings shall be confiscated, together with any weapons and any equipment used or intended to be used by such groupings. The moveable and immovable property of such associations and groupings will be the subject of a sequestration order and be disposed of by the administration.

III. Financial and economic assets freeze

9. *Please describe briefly:*

- *The domestic legal basis to implement the asset freeze required by the resolutions above;*
- *Any impediments under your domestic law in the context and steps taken to address them.*

The Kingdom of Morocco has recently adopted new legislation to suppress the funding of terrorism. Article 4-218 of law No. 03-03, published in the *Official Gazette* on 29 May 2003, regards as an act of terrorism:

> "the act of providing, collecting or managing, by any means whatever, directly or indirectly, funds, securities or assets with the intention of using them or in the knowledge that they will be used, wholly or in part, to commit an act of terrorism, irrespective of whether such an act takes place;
>
> the act of providing assistance or giving advice to such an end".

The terms of imprisonment imposed range from 5 to 30 years and the fines from 500,000 to 5 million dirhams.

Persons guilty of the financing of terrorism also incur the confiscation of their assets in whole or in part.

Part IV of this law which will be incorporated in the Code of Penal Procedure, was entirely devoted to the suppression of the funding of terrorism. It enables the judicial authorities, on the occasion of any enquiry, to ask for information on financial operations or the movements of funds suspected of being used for the financing of terrorism.

This law will apply to all terrorist acts, including those prepared or perpetrated by the individuals and entities included in the Consolidated List referred to in resolution 1267 (1999).

It provides that the judicial authorities may order the freezing or seizure of funds as soon as they suspect them of being connected with the financing of terrorism. In that connection, the authorities may request the assistance of Bank

Al-Maghrib (the Central Bank) for the implementation of these measures (article 595-2). Under the terms of this law, freezing is the temporary prohibition of the transfer, conversion, disposal or movement of assets or the fact of putting them under seal (article 595-3).

10. *Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.*

At the international level, law No. 03-03 defines the procedure to be followed in collaborating with authorities abroad in compliance with the international conventions to which Morocco has acceded in order to combat the funding of terrorism.

In that context, the Government, at the request of a foreign State, may refer the matter to the judicial authorities with a view to taking the following measures:

- The search for and identification of the results of an offence of financing terrorism and assets which have been used, or were intended to be used, to commit an offence, or any asset the value of which corresponds to the result of such offence;
- The freezing and seizure of assets;
- The taking of preventive measures with respect to such assets.

A decision to freeze or seize funds issued by a foreign judicial authority may be implemented in Moroccan territory subject to respect for the substantive and formal conditions set forth in the above-mentioned law.

11. *Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.*

In the context of identifying and locating assets attributable to Osama bin Laden, members of Al-Qaida or the Taliban, or associated entities or individuals or their beneficiaries, and in accordance with law No. 03-03 on counter-terrorism, the banks must be in a position to transmit to the Royal Prosecutor General, the examining magistrate and the trial judge information on operations or movements of funds suspected of being linked to the financing of terrorism, and to do so in the course of a judicial proceeding (Part IV, article 595-1).

In addition, professional secrecy cannot be invoked before the Royal Prosecutor General, the examining magistrate, the trial judge or Bank Al Maghrib (article 595-4).

Due diligence has also been provided for by the above-mentioned law which makes it mandatory for banks to provide the information in question within a

maximum of 30 days from the date of receipt of the request for such information (article 595-4).

The requirements concerning the identification of customers likely to be involved in terrorist financing arrangements arise from the prohibition on the opening by banks of anonymous accounts (article 488 of the Dahir promulgating law No. 15-95 of 1 August 1996 constituting a commercial code).

With respect to monitoring bodies and their terms of reference, it must be made clear that Bank Al Maghrib, the task of which is to monitor the banks, may be requested by the above-mentioned judicial authorities to assist in the implementation of measures to freeze or seize assets suspected of being connected with terrorist financing (article 595-2 of law No. 03-03).

The management and employees of the banks responsible for the processing of financial information and preventing the movement of funds connected with terrorism are liable to penalties if they provide information to the people in question concerning ongoing inquiries into the funds they hold and which are suspected of being used for terrorist financing (articles 595-9 and 595-10).

12. *Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:*

- *identification(s) of the person or entities whose assets have been frozen;*
- *a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);*
- *the value of assets frozen.*

The Moroccan judicial authorities have ordered the freezing of a current bank account belonging to Said Bahaji, whose name is on the Consolidated List.

13. *Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.*

No.

14. *Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:*

- *The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida of the Taliban. This section should include an indication of the types of institutions informed and the methods used.*

- *Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.*

- *Requirements, if any placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.*

- *Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.*

- *Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.*

The Ministry of Finance has sent a circular to banks prohibiting all transactions by the banks for the benefit of the persons and entities included in the Consolidated List, whether they are principals or beneficiaries.

Moreover, as already indicated in the report by the Kingdom of Morocco to the Counter-Terrorism Committee (S/2001/1288), the system for the transfer of funds and currency exchange requires the prior authorization of the Exchange Office, an administrative body which is able to monitor the origin and destination of all financial transactions, including postal orders.

The collection of donations by charitable or religious organizations is subject in all the relevant cases to authorization by the competent authorities. Such authorization is governed by the law of 12 October 1971 concerning appeals to public generosity and penalties are imposed by the judicial authorities for any violation of that procedure.

Moroccan legislation also enables the Government to monitor funds received from abroad by Moroccan non-governmental organizations. The Dahir of 23 July 2002 promulgating law No. 75-00 provides in article 32 bis that associations in receipt of foreign aid must declare it to the General Secretariat of the Government, specifying the amount received and its origin, and must do so within 30 days from the date of obtaining the aid; any violation of the provisions of that article renders the association liable to dissolution.

As an exception to the legislation relating to appeals to public generosity, associations that are recognized as being in the public interest may, once a year, and without prior authorization, appeal to the generosity of the public or use any other authorized means of fund-raising. However, they are obliged to make a declaration to the Secretary-General of the Government (article 9 of the Dahir of 23 July 2002).

Furthermore, the Secretary-General of the Government may express opposition, giving his reasons, to any appeal to public generosity or to the organization of any fund-raising arrangement if he considers that it is contrary to the laws and regulations in force.

IV. Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

15. *Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.*

Amendments to the Code of Penal Procedure which will enter into force on 1 October 2003 authorize the judicial authorities, under the procedures contained in articles 160 to 174 of the Code of Penal Procedure, to confiscate the passport of any person subject to judicial control and to prevent such person from crossing the frontiers. A foreign national may be placed under house arrest and his passport automatically confiscated and be prohibited to cross the frontiers (article 182 of the Code of Penal Procedure).

A law concerning the entry and stay of foreign nationals in the Kingdom of Morocco, unauthorized emigration and immigration has been adopted by Parliament. The main provisions concerning terrorism are as follows:

- Law 02-03 provides in articles 14 and 16 that registration and residence cards may be refused to any foreign national "whose presence in Morocco is a threat to public order".
- A foreign national shall be accompanied to the frontier if the withdrawal of his registration or residence card has been declared on grounds of a "threat to public order" (article 21).
- Chapter IV (articles 25 to 27) covers expulsion:
  - Expulsion of a foreign national who is *a serious threat to public order* (article 25);
  - Article 26 provides that *no time limit is required for expulsion if the conviction concerns an offence involving a terrorism-related undertaking*;
  - Article 27 considers that *where the expulsion constitutes an urgent necessity for the safety of the State, it may be declared as an exception to article 26*. That article excludes eight categories of foreign nationals from expulsion.
- Any foreign national who tries to enter Morocco in contravention of the law shall be liable to a term of imprisonment of between one and six months and to a fine of between 2,000 and 20,000 dirhams, and the administration may expel such person "*having regard to requirements arising from security and public order*".

16. *Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.*

The Consolidated List has been transmitted to the authorities responsible for frontier control.

17. *How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?*

The list of individuals whose entry to Morocco is prohibited is updated regularly and communicated to the frontier posts each time it is updated.

Morocco has electronic means of searching data at all points of entry.

In that connection, new provisions have been adopted to ward off attacks on automated data-processing systems. Law No. 07-03 concerning the suppression of crimes of that type provides penalties for any fraudulent manipulation of information systems of up to 10 years' imprisonment and fines of up to 2 million dirhams.

18. *Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.*

No.

19. *Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?*

Each time the list of persons whose entry into Morocco is updated it is transmitted to all Moroccan consular posts which are obliged to cross-check any request for a visa against the List.

No Moroccan visa service has identified an applicant for a visa whose name appears on the List.

V. Arms embargo

20. *What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of Al-Qaida and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?*

Morocco is not a military weapons-exporting country and the traffic in such weapons is strictly prohibited (article 3 of the Dahir of 19 February 1949).

21. *What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of Al-Qaida and the Taliban and other individuals, groups, undertakings and entities associated with them?*

The Dahir of 2 September 1958 imposes a penalty of between 5 and 20 years' imprisonment on any person who keeps, manufactures, imports or markets weapons, munitions or explosives in contravention of the applicable texts.

The perpetrators of any violations of the legislative or regulatory provisions relating to the possession or marketing of weapons and explosives are tried by the Military Court.

Article 303 bis of the Penal Code, adopted by law 38-00 of 15 February 2001 imposes a terms of imprisonment of between one month and one year on any person who is arrested in circumstances constituting a threat to public order or to the safety

of persons or property, while carrying a piercing, blunt, cutting or suffocating device, implement or object.

22. *Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of Al-Qaida and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.*

Any import or marketing of weapons in Moroccan territory is subject to special authorization (Dahir of 31 March 1937).

The trade in weapons other than weapons of war takes place on the basis of a licence from the Director-General of National Security and the holders of licences for the wholesale or retail sale of weapons, munitions and products used in their manufacture are obliged to keep a register mentioning, for each sale, the type of weapon sold, the comprehensive identification of the purchaser and of his permit to bear arms (Dahir of 25 February 1924 and Dahir of 19 February 1949).

This register is kept under the control of the competent authorities which are able to consult it at any time.

The Dahirs of 30 May 1921 and that of 3 September 1955 set out the conditions for the grant of licences to bear arms.

The Dahir of 14 January 1914, as supplemented and amended, severely regulates the import, circulation and sale of explosives.

23. *Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of Al-Qaida and the Taliban and other individuals, groups, undertakings and entities associated with them?*

Morocco is not a country that produces weapons of war and its legislation on the holding and circulation of weapons is very severe, as indicated above.

VI. Assistance and conclusion

24. *Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.*

25. *Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.*

No request in this area has been made by the competent Moroccan authorities but the Kingdom of Morocco will not fail to notify the Committee of any request that may be received.

26. *Please include any additional information you believe pertinent.*

None.